

April 6, 2020

The Honorable Sean F. Cox
United States District Court for the Eastern District of Michigan
Theodore Levin U.S. Courthouse
231 West Lafayette Blvd., Room 829
Detroit, MI 48226

RE: United States of America vs. City of Detroit, et al
Case No. 77-71100

Dear Judge Cox:

This letter has been written in response to the court's request to hear from The Senior Accountants, Analysts, and Appraisers Association (SAAA) in November, 2015 and the Court subsequently stating that it hadn't heard from SAAA.

To briefly review the record up to this point on November 4, 2011 the Court came out with 13 specific orders (Docket Entry No. 2410, pg. 6-7) for changes to the way the Detroit Water and Sewerage Dept. (DWSD) did things. Unsatisfied with several of the orders, in December 2011 SAAA and AFSCME Local 207 gave notice to the Court that they had filed with the U.S. Court of Appeals for the Sixth Circuit (Nos. 11-2561/2569). On April 8, 2013 the Court of Appeals issued a grant of limited intervention for the unions. On July 8, 2013 SAAA lawyer George Washington requested a status conference (Docket Entry No. 2538). A few months later Detroit went into bankruptcy difficulty and few, if any, relevant legal proceedings occurred for several months. On November 5, 2015 (Docket Entry No. 2565) the Court ordered that if any party opposed any portion of the "relief requested by the City and/or the DWSD in the proposed orders ... shall file a brief ... no later than November 23, 2015". On December 15, 2015 the court noted (Docket Entry No. 2573, pg. 9) that it hadn't heard from SAAA*. I don't know where the break down in communications occurred between SAAA and its lawyers but since something clearly went wrong I have taken it upon myself to respond (with the consent of SAAA, Exhibit 1) to the extent that I'm qualified to do so (Exhibit 2). It should be noted that in March of 2017 when I learned of Docket Entry No. 2573 and informed the then SAAA President, Audrey Young (Bellamy), she indicated that she was unaware of the request by the Court to hear from opposing parties but that she would respond (her e-mail to me, Exhibit 3). She has since declined to respond since she was no longer a member of SAAA. Possibly she feared retaliation from the City since she was now part of management.

To comply with the Court's order for new job titles DWSD hired the company EMA Inc. in 2012 to study the situation and make new job titles, supposedly to help improve the functionality of DWSD. It would appear that what happened instead was that to a significant degree the new job titles were used

* It should be noted that then SAAA President Audrey Young and Vice President Sharon Jordan told me that in 2015 they waited three hours outside the Judge's chambers but weren't admitted. I have been unable to learn the exact date that this occurred (they think that it was a summer day). According to SAAA their lawyer, Richard Mack, was inside the chambers at the time.

to lay off employees that upper management didn't like. Especially older workers, non flunkies, and members of unions which didn't cave into DWSD's unreasonable requests. We were told at a SAAA union meeting that in order to have a new contract 1) SAAA had to give up its lawsuit at the 6th Circuit Court of Appeals (Exhibit 4 page 3 paragraph 4, Exhibit 5 item #11) and 2) if you were a member of the Resource Group (employees not receiving a new job title were told that they would be put into a group of employees called the "Resource Group") you couldn't file a grievance. I believe that an investigation should be performed as to how many employees were laid off from unions that had signed contracts as opposed to unions that hadn't signed contracts. According to SAAA the four government analysts that were laid off were the oldest government analysts and the six accountants laid off had all filed a grievance at one time or another. I noticed that the six senior programmer/analysts laid off were mostly the oldest (Exhibit 6). According to one of the two DWSD chemists union's presidents, Saulius Simoliunas (SCATA union), told me that a third of the union's chemist were laid off, including all five union officers. According to one of the two DWSD engineer's unions presidents, Shakil Ahmed, Association of Detroit Engineers, told me that roughly half of the union's engineers were laid off. Given that many of DWSD's staff were older it would have been easy enough to grandfather current employees but that wasn't done. Former AFSCME Local 207 President Mike Muhalland told me that layoffs were done, despite the fact that the EMA proposed automation, which supposedly would require fewer workers, hadn't been done. At the time of the information technology (IT) layoffs in October 2014 DWSD human resources head Terri Conerway told SAAA that IT workers were laid off for a lack of work (Exhibit 7) but later the Great Lakes Water Authority (GLWA) and DWSD posted positions for programmers/analysts (Applications Analyst in the new job title designation, Exhibit 8, page 8).

There were/are many things wrong with the EMA project and the new job classifications (app. A). It should be noted that on November 20, 2012, the Detroit City Council (including current DWSD Director Gary Brown), after hearing from several people during public comment, voted the \$48 million EMA contract down 9-0. In order to do an end run around the Detroit City Council DWSD then unethically broke the contract up into smaller pieces, each under \$2 million, which the Council couldn't vote on. The EMA contract was a no bid contract, in violation of the Procurement Policy advocated by the Court (Docket Entry No. 2410 – 2, Exhibit 9). Retired DWSD head water engineer, Dennis Green, who opposed the EMA project, said that EMA employees were better salesmen than engineers. Many DWSD employees, including myself, were told by Jeff Coulson of EMA at a largely attended meeting in 2012 at DWSD that if one didn't receive a new job title they would be put into the Resource Group (a group of employees that could be assigned to any kind of work)(Exhibit 10, Exhibit 11 - ques. 18). Three union presidents - Audrey Young (SAAA), Saulius Simoliunas (chemists) and Shakil Ahmed (engineers) told me that they were told in meetings with DWSD management that if employees didn't receive a new job title they would be put into the Resource Group. In a November 5, 2015 email to Robert Daddow (on the GLWA Board of Directors) SCATA union vice President George Vannilam wrote "Ms. McCormick had been telling us that there would be no layoffs of the Chemists, and reduction in work force would be effected through attrition only!" (Exhibit 12). We were all lied to by DWSD management.

In this response I would like to address some of the Court's 13 orders of November 4, 2011.

Order #1 calls for training for DWSD employees and employee assessments. Between 11/4/2011 – 10/14/2014 (on 10/14/2014 eight programmer/analysts were laid off, without warning) we in IT were never given any training that I'm aware of. When I asked for a computer security class I was turned down. We in IT were never given any self assessments. It should be noted that under the Archer

administration the City of Detroit replaced automatic step increases for union employees with employee evaluations. I only received one such assessment while at DWSD. Other groups of workers at DWSD may not have been given any such assessments. In as much as several of us worked on what DWSD IT management wanted us to work on (such as myself working on mobile devices) and not what the EMA project came up with (e.g. web developer), such assessments would have been inaccurate.

On order # 4, bumping, I note that I and seven other programmer/analysts were absorbed into DWSD in 2006 after being laid off by the City's IT department (nobody at DWSD was bumped). The layoffs supposedly resulted from City financial problems which I believe are due, in large part, to business flight from the City and racism. Why should employees have to suffer because of problems caused by others? While I understand the problems with a programmer or skilled tradesman from one city department bumping a programmer or skilled tradesman at DWSD and the perhaps years of specific job knowledge lost by such a bump I believe that an attempt to give something of significant helpfulness to such laid off employees should be made.

On order #5, outsourcing and subcontracting, regarding IT, I believe, as do many, that for large organizations IT should be kept in house. It might be noted that DWSD IT already employed several contract employees at the time of the order. Regarding outsourcing of grass cutting and janitorial work, the replacement employees are often paid less in wages and benefits. This is part of the class warfare that has been going on for several decades in the US as the American middle class shrinks (Exhibit 13, paragraph 5).

It states in the DWSD CEO report dated December 19, 2012 "After the first of the year, we will identify those areas that we will begin RFP development for consideration of outsourcing. Consistent with our commitment to employees who may be impacted, we will advise employees if we are preparing an RFP that includes their work. We will also outline the process for receiving proposals, including those by employees" (Exhibit 14, par. 5). Attached is an RFP for contract no. CS-1677 for Information Technology Staffing dated January 2015 (Exhibit 15). Eight DWSD programmer/analysts were laid off in October, 2014. Nobody that I'm aware of was ever made aware of the coming RFP.

Order #6 severely restricts union related activities that union officers may use time at work for. There are many other duties that union officers have to attend to. Possibly training, the hours required to read the 30ish page court documents pertaining to the union, attending and possibly speaking at Detroit City Council meetings, meeting with union lawyers, attending water board meetings, dealing with union expenses such as paying bills and circulating union literature, etc. I now quote from former AFSCME 207 President John Riehl's statement to the Court dated November 10, 2011 - "Moreover, both the Local President and the Grievance Investigators do far more than attend grievance hearings and union negotiations. We have to investigate grievances before we meet with City representatives. Moreover, every day, we handle dozens of requests for information regarding sick leave, funeral leave, promotions, apprentice issues, personality conflicts on the job, job injuries, job assignments, FMLA, pensions and other issues. Part of our job is to resolve those issues without the need for grievances. ... Finally, in my capacity as President, I have to learn about and speak out on dozens of issues that affect DWSD ..." (Docket Entry No. 2415 - 3, pg. 7 - 8, items 35 - 38). To not allow time for all necessary union activities is to expect union officers to use their vacation time for such activities. This would be helping to destroy unions. Union decline has been listed as a reason for the shrinking American middle class (Exhibits 16, 17) by many economists.

On order #8, job reclassification, I address problems with this in appendix A.

On order #9, while I can see problems with promotions based solely on seniority there are problems with the Court's order, namely unfair supervisor favoritism of some employees and employees feeling a need to curry favor with supervisors. I do not offer a solution at this point.

Order #12, "Any existing work rules, written or unwritten, or past practices that are contrary to these changes are hereby terminated." is too broad and general and possibly unfair if an actual situation arises (such as DWSD deceiving employees that if they didn't receive a new job title they would be put into the Resource Group).

On order #13, the last order, the Court was apparently concerned about being interfered with by other courts or union filings. If this Court's 13 orders are fair and just, that shouldn't be of concern. In concert with the broadness of order #12, order #13 is particularly unfair.

While I was told that I was being laid off because I didn't have a new job title ("Elimination of Classification", Exhibit 18), SAAA was told that programmer/analysts were laid off for lack of work (Exhibit 7). As for myself I had more than enough work to do on mobile devices (my work assignment). A few months after the layoffs DWSD tried to bring in IT contractuels (Exhibit 15). Then DWSD just started posting computer jobs (Exhibit 19). According to SAAA some laid off accountants were replaced by contractors and an IT clerk was replaced by someone who was replaced by a contractor. According to one DWSD board member DWSD was paying \$100,000/yr or more for some contractors. Why was it necessary to lay off long time city employees to replace them with more expensive contractors?

Referring to the staffing level at the Waste Water Treatment Plant (WWTP) the DWSD Interim Staffing Plan submitted to the Michigan Department of Environmental Quality with the date September 19, 2014 (Exhibit 20) states on page 8 in the last paragraph "DWSD has committed largely through attrition as we evolve to the appropriate staffing level ...". Apparently attrition didn't apply to the rest of DWSD as 8 of 15 SAAA DWSD IT dept. programmer/analysts were laid off without warning the following month. Nor did attrition apply the following year as employees of the WWTP, chemists, engineers, accountants, and government analysts were laid off. The EPA believed that reduced staffing was through attrition as a letter from the EPA to Sue McCormick dated October 23, 2014 states on page 2, #2, "The reductions are occurring through attrition ..." (Exhibit 21). The DWSD document entitled Frequently Asked Questions Regarding the Detroit Water and Sewerage Dept. (DWSD) EMA Assessment Results and Optimization Plan states that staff reduction would mostly be through attrition (Exhibit 11, ques. 3, 6, 14, 21).

According to an April 1, 2016 article in the Oakland Press the GLWA Director informed the MDEQ "On behalf of GLWA McCormick wrote back to the MDEQ on March 18 stating that the layoffs [in 2015] were made because of transition of operations from the Detroit Water and Sewage System to the GLWA, when GLWA took over its functions. McCormick stated that many or most of the functions of the laid off employees will be replaced by new hires and internal transfers." (Exhibit 22, page 2, par. 7). Given that GLWA/DWSD has hired new employees to replace those laid off (Exhibit 23, pg. 9, par. 6, pg. 10, par. 1; Exhibit 19) it must be asked if race/age played a part in the layoffs. According to a voiceofdetroit.net November 3 (or 8?), 2015 article (Exhibit 24, pg. 15) engineer union president Shakil Ahmed emailed GLWA Board member Robert Daddow complaining about the layoff of DWSD

engineers. According to the article "Daddow told Ahmed to direct his complaint to DWSD since the GLWA had not yet taken over". GLWA did not begin operations until January 2016 yet McCormick claimed in 2015 that GLWA was requiring new employees. Apparently DWSD downsizing supposedly due to new job title efficiencies, automation, and a need to reduce rates (Exhibit 25) was miraculously replaced by a need to hire new people to replace the ones that DWSD got rid of. There is a possibility the downsizing was done in part to attempt to justify spending (wasting?) millions of dollars on the EMA project (which should be investigated) which suggested downsizing.

It should be noted that AFSCME 207 was part of the Appeals Court lawsuit that SAAA was party to. AFSCME 207 has told me that DWSD deliberately delayed a new contract and then a new contract was crammed down on them in 2015 while AFSCME 207 officers were excluded from contract negotiations by a larger AFSCME unit.

Respectfully submitted,

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Appendix A

Regarding Order No. 8 of Docket Entry No. 2410 ("reduce the number of DWSD employee classifications ...") there is a jack of all trades, master of none aspect to this that is wrong, at least for IT. In a 2012 presentation from EMA to a large number of DWSD employees Jeff Coulson of EMA talked about cross training. The only cross training in IT that I'm aware of was for the PC techs to do part of the work that I performed on mobile devices*. In general, cross training can only work if people don't have a lot to do in their job titles, which then allows them time to work on something else. For instance, when I had summer jobs at General Motors I observed that skilled trades workers might only have one days' worth of work in a week. They would have the time to do something else. For busy professionals or people on an assembly line cross training doesn't make sense if they don't have a lot of extra free time on the job. Besides the free time factor, for IT a programmer usually isn't going to be allowed to be a database or network administrator because people who don't know what they are doing can really mess things up. Vice versa for the database and network administrators. EMA cross training never made much sense for IT.

Another thing wrong with the new EMA job title, Applications Analyst, that replaced Data Processing Programmer/Analyst is that the actual job duties, beyond the specific softwares being used, are to a

* Technically speaking, mobile devices (cellphones, smartphones, etc) aren't usually considered IT and I believe that it wasn't EMA's idea to have PC techs work on mobile devices.

large degree the same (Exhibit 26, Exhibit 27). The new job title for programmers calls for certifications (the Java computer programming language is one possibility listed) and Oracle database software knowledge. These are currently common software and are/were used by GLWA/DWSD.

Order #1 called for training but I'm unaware of any training offered to the IT staff for Java or Oracle up until when we were laid off three years later. Further questionableness of the new job titles is born out in the fact that I was told that at one time DWSD had 20 some Java programmers, all I believe contractors. I was told that this number was down to 6-8 when I came to DWSD in early 2006 then down to one when we were laid off in 2014. So in essence EMA created a new job title that DWSD only needed one or two people for. The rest of the IT staff were doing other things, at the request of DWSD management. I was ordered, in spite of my protests, to work out of job title on mobile devices. I was told that I would be written up if I didn't do so. When I was put into DWSD from another city department in 2006 I was initially assigned to radio SCADA, which again was work outside of my job title. Three senior programmer/analysts were assigned to the help desk to work as PC techs, which again is out of job title. One told me that he complained for months about this. Another programmer was assigned to be a server administrator, which is out of job title. Another senior programmer/analyst worked in the group that monitors the water system – again this was out of job title. My last DWSD IT supervisor told me that [IT] job titles didn't mean anything at DWSD. When I was taking classes in the Java computer language in 2009 at a junior college my DWSD supervisor wouldn't even let me have the Java language on my PC at work. DWSD was uninterested in helping me learn the Java language that EMA would require a few years later. Another senior programmer/analyst told me that he tried for years to get into the Java programming group at DWSD but was denied. So essentially DWSD city employee programmers were laid off for not having software skill sets that up until the new EMA job titles DWSD had shown no interest in them having! When I was laid off I was told by DWSD that I didn't have a new job title. This in a department that had repeatedly demonstrated disdain for job titles, even to the point of damaging employee careers!

In 2014 I asked for a computer security class and was denied. So much for the training that was promised by EMA (Exhibit 28). I wasn't allowed to alter computer server data by a server person necessary for smart phone email to work. So much for the cross training that EMA was suppose to bring to everybody.

Current SAAA President Sharon Jordan told me that people who received new job titles kept doing their old jobs.

An engineer, who must remain anonymous, told me that EMA required a PMP certification for engineer project managers. He said that didn't make much sense in Michigan. EMA called an Electrician by another title, which Mike Muholland, former president of AFSCME Local 207, told me was illegal in Michigan.

Some of the laid off chemist's work was assigned to water operators.

The EMA optimization project maps old job titles to new ones (Exhibit 8). It maps several different kinds of engineers- electrical, mechanical, chemical, etc to simply Engineer while mapping specific IT titles to specific IT titles. This is logically inconsistent and in the case of engineering the new job title, Engineer, is vague. The EMA project mapped a PC tech to Application Analyst, Database Administrator, GIS Analyst, Infrastructure Administrator [computer], Project Manager [computer], or

Service Desk Analyst. This is roughly like mapping a nurse to several physician specialties in that PC techs are rarely qualified for these positions. A telecommunications technician is mapped to Application Analyst, Database Administrator, GIS Analyst, Infrastructure Administrator [computer], Project Manager [computer], or Service Desk Analyst. None of those titles would contain the skills needed to be a telecommunications technician or vice versa.

In 2015 this input was given to me from Dennis Green, former DWSD Head Water Systems Engineer for Facilities Design: "You may quote me as I testified to the BOWC as follows: EMA knowingly proposed plans for the water system that violate MDEQ (on automation of water treatment) and OSHA regulations regarding qualifications of people who may work on switchgear. I can produce a witness that they were advised of the errors in their proposal who will testify under oath. (I'm not willing to identify him here.) On this basis I can only conclude that they are grossly incompetent or unethical."

The replacement job title for data processing programmer analysts, Applications Analyst, was described as non-civil service (Exhibit 27, pg. 4). I strongly believe in civil service protection. Around 2011 I emailed Council Member JoAnn Watson about wasteful spending at DWSD. She put a stop to some of it. I was admonished by management but they couldn't touch me as I was a union protected civil servant. The Court will hopefully be alarmed that something as precious as the public's drinking water wasn't fully safeguarded by strong civil service protections.

In the accompanying DVD, starting at 40 minutes, (Exhibit 29, unofficial transcript by James Capizzo - Exhibit 30) covering the City of Detroit Public Health and Safety Standing Committee meeting on October 29, 2012 former water operator Russ Bellant and retired water engineer Dennis Green give powerful testimony against the EMA contract.

Following are several comments from Diane Bukowski's voiceofdetroit.net. article on October 9, 2015 (Exhibit 31):

"Association of Detroit Engineers Pres. Shakil Ahmed recently emailed GLWA chair Robert Daddow as follows: "DWSD is laying off 11 experienced engineers with professional licenses and in their place are bringing engineers with no experience and without professional licenses. We are very short in engineering staff and this action will upset the operation of DWSD"."

"Mike Mulholland, Pres. of AFSCME Local 207, representing Detroit Water and Sewerage (DWSD) workers, told VOD last week that he expects 67 of his members to be laid off this week because the department changed their job titles and made them apply for the new jobs, which comprised the same work, then denied their applications. "

"A large number of contractors are being hired. [Council President Brenda said] Jones said the DWSD contracts are not being brought before the City Council."

"For the past month, VOD has observed contractors on East Jefferson from Belle Isle to Erma Henderson Park digging up huge tracts of sidewalks and street-side land. A project worker said they are replacing water mains, work normally done by qualified DWSD employees. Contractor trucks included some from Springline Excavating, LLC, which has offices in Detroit, Livonia, and Smyrna, GA.

Former Local 207 Vice-President Lekita Thomas earlier told VOD that DWSD workers must

frequently go behind the work of inexperienced contractors to re-do it. There definitely appeared to be shoddy workmanship on the current project, as seen by one hydrant among many that have spouted water for weeks after the work.”

“Audrey Bellamy, President of the Senior Accountants, Analysts and Appraisers Association (SAAA), said the city has also told all DWSD workers that they are no longer Civil Service employees. “I don’t believe that’s legal or that they have the capacity to tell our people that,” Bellamy said.”

Following are several comments from Diane Bukowski's voiceofdetroit.net. article on November 3 (8?), 2015 (Exhibit 24):

“The Detroit Water & Sewerage Department (DWSD) has laid off at least 200 workers in recent months, many of them long-term, experienced employees, according to documents received by VOD and information from workers themselves”.

“... laid off workers Edward Collins, Jr., Dean E. Fox Sr., and Sammy Barber ... showed lay-off notices with “elimination of job title,” not “lack of work,” listed as the reason for termination, or no reason at all. The three were general auto mechanics.”

“... Collins said, 11 out of 25 auto mechanics were laid off although they were already short 10 people.”

“An active WWTP worker told VOD over the phone that he is currently working multiple shifts back to back because so many people at the WWTP have been laid off or transferred. He said management has the authority to tell workers to stay on the job at the end of their shift if they are short-staffed. If they leave, they are fired. “

““There are sometimes only two workers on a floor, sometimes one, and sometimes none at all. I can hardly leave the job because they’ve laid off about 70 people, or transferred them, or switched them around to other jobs. They were already short 300 workers. One worker recently had a major heart attack. The people running this place are totally incompetent. “”

““This is a safety issue,” [Dean E.] Fox said. “DWSD is getting federal money to provide clean water, but they are putting inexperienced people in positions doing dangerous stuff. When you first start, you learn a lot from the other guys, for instance how to find the actual hole that is the source of a water main break. It’s not always where the water is spouting off.

Recently, one guy with the title of ‘truck driver’ was running an excavator, with no experience knowing how wide the circumference to swing the bucket was, and he tore off the whole side of a church.””

“[Sammy] Barber said four-man crews are needed to work in manholes, but they are being reduced to three-man crews, a highly dangerous situation.

“You need a top man, an operator, and two men to go down into the hole, even 5-10 feet,” one said. “If there’s a problem in the hole, you need someone to go down there to help get the men out. One guy doing a water job on the side recently got caught in a cave-in and almost died.” “

From Diane Bukowski's voiceofdetroit.net. on March 6, 2017 (Exhibit 32):

“Nine operators were recently sent to remedial mathematics classes “developed for operators struggling with math or those who needed to review basic math before moving on to more advanced computations required for drinking water operators.” according to GLWA CEO Sue McCormick’s February report,

which she presented at the GLWA's Public Budget hearing March 1, 2017".

One hopes that the water operators referenced in the above article aren't doing the tests that the laid off chemists were doing.

The following is from an anonymous letter contained in the GLWA February 24, 2016 Board of Directors agenda as attachment 6A (Exhibit 33):

"Dear GLWA Board of Commissioners

The employees of GLWA are coming to you with some issues/concerns

First, we would like to thank you for the opportunity to work for GLWA.

However the process in which employees were/are being selected was very unfair. We have had employees who obtain C, D and Fresh Water license be laid off, while employees with no license, poor work performance and poor attendance allowed a position. This is very unfair. We also, have employees who are more qualified than others but they receive lower paying titles. This is unfair and unconstitutional

Based on the employees understanding selection was to be based on experience and qualifications, what was the point of the employees attaching their resumes along with credentials if the supervisor was not going to consider them? Evaluations were based on favoritism.

Supervisors were not asked which employees were good workers, nor which employees should be laid off, supervisor did not give any input on employee selection, seeing that the supervisors are the one who have to deal with the employee on a day to day basis, they should have been able to select or give input.

Also, there were employees who received layoff notices which were later rescinded and received job title, this was unfair.

Plant Management is so concerned with cost cutting and overtime hours, why has he approved for the plant manager to remodel his office, tearing down walls, ordering furniture, new carpet.

The so call director of wwtp does not really know how the operation of the plant works and not trying to find out too busy closing his door and not talking to employees. Let's talk about the so call incinerator guru, what is her title what is she there for?

We thought working for a new company we would have NEW MANAGEMENT staff that is willing to work with the employees, assist us when we need help, not gather and discuss how to write us up; talk down about us behind closed doors.

And Human Resources is a joke, we go to them for answers they either don't know or don't care to be bother with the employees and if they assist you the attitude you have to deal with from the General Manager on down to their clerical staff.

This first month with GLWA has been awful for us. We are writing this letter as a whole so no one person will receive retaliation from management. If possible can we meet with the Board so we can discuss our concerns? EMPLOYEES OF GLWA"